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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/913,448 | 08/14/2001 | Marek Weltrowski | BDL-355XX | 9630 |
| 207 | 7590 | 01/11/2005 | EXAMINER | |
| WEINGARTEN, SCHURGIN, GAGNEBIN & LEOVICI LLP TEN POST OFFICE SQUARE BOSTON, MA 02109 | | | GRAY, JILL M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1774 | |

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,448

Applicant(s)

WELTROWSKI ET AL.

Examiner

Jill M. Gray

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004 and 18 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-13 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-6, 11-13 and 17 is/are allowed.
- 6) ☒ Claim(s) 7-10, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The objection of claims 15 and 16 under 37 CFR 1.75(c) is moot in view of applicants' amendment canceling these claims.

The rejection of claims 5, 7-9, 13, 16, and 20 under 35 U.S.C. 112 second paragraph for the reasons stated previously, is moot in view of applicants' amendments.

The rejection of claims 4-6, 11-13, and 17 under 35 U.S.C. 103(a) as being unpatentable over Reuscher et al, 5,728,823 is withdrawn in view of applicants' arguments.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, the specification as originally filed does not contain the equation $x-y \geq 1$. Accordingly, claims 7 and 8 as amended set forth new matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-10 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuscher et al, 5,728,823 (Reuscher), for reasons of record.

Reuscher teaches fiber and fiber products coated with cyclodextrin and/or cyclodextrin derivatives. Reuscher is silent as to the specific structure as set forth in claims 7 and 8. However, it is the position of the examiner that the teachings of Reuscher of cyclodextrin derivatives necessarily include structures essentially as claimed by applicants in the absence of factual evidence to the contrary. Regarding claim 8, Reuscher does not specifically teach a crosslinked copolymer; nonetheless, he does teach that crosslinkers can be included. Accordingly, it would have been obvious to crosslink the coating to enhance the linkage between the fibrous structure as set forth in claims 7 and 8.

Response to Arguments

Applicant's arguments filed October 18, 2004 have been fully considered but they are not persuasive.

Applicants argue that Reuscher teaches that reactive cyclodextrin derivative are able to react with compounds which carry two or more nucleophilic groups, allowing crosslinking of the cyclodextrin derivative, further arguing that the reaction medium applied to materials or leather as taught in Reuscher for the preparation of textile

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materials treated with reactive cyclodextrin derivatives does not contain any of the compounds which carry two or more nucleophilic groups indicated at column 8, line 64-column 9, line 4, and that no crosslinking between the fibrous material and cyclodextrin would have been possible in these conditions, whereas in the present invention, crosslinking is the consequence of a specific utilization of the polycarboxylic acid and is independent of the structure of the cyclodextrin.

In this concern, it is the examiner's position that all of the disclosures in a reference must be evaluated for what they fairly teach one of ordinary skill in the art. Hence, Reuscher is relied upon for all that he would have reasonably imparted to one of ordinary skill in the art at the time the invention was made, namely, the addition of crosslinking agents. Clearly this teaching would have provided direction to the skilled artisan for the inclusion of crosslink agents in the mediums as well as a suggestion for the formation of crosslinked cyclodextrin. The fact that the reaction mediums applied to materials and leather of Reuscher do not contain compounds having two or more nucleophilic groups does not preclude the clear teaching that the cyclodextrin can be crosslinked.

Therefore, the examiner's position remains that the teachings of Reuscher would have rendered obvious the invention as claimed in present claims 7-10 and 18-19.

Claims 4-6, 11-13, and 17 are allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M. Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

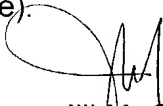

RENA DYE
SUPERVISORY PATENT EXAMINER

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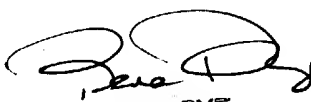
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jill M. Gray
Examiner
Art Unit 1774

jmg



RENA DYE
SUPERVISORY PATENT EXAMINER
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